



## UNDERSTANDING OFFICIAL USE ONLY

### *What is Official Use Only?*

Official Use Only (OUO) information is unclassified information that has the potential to damage governmental, commercial, or private interests and may be exempt from public release under the Freedom of Information Act (FOIA).

Any Federal or contractor employee may determine that an unclassified document contains OUO information if that document originated within, is produced for, or is under the control of his or her office.

In order to make an OUO determination, you must be familiar with the OUO directives, including the marking and protection requirements. The Office of Classification or your program office may have issued OUO guidance for specific information. If information is covered by guidance, it must be marked OUO. If the information is not covered by guidance, you must first consider whether the information could damage governmental, commercial, or private interests if given to someone who does not need it to perform his or her job or other DOE-authorized activity. If you determine there is a potential for damage, you must next decide if the information falls under at least one of the FOIA exemptions. If you believe that the information meets both criteria, then the document is OUO, and you should mark and protect the document accordingly.

If the information is not covered by guidance and does not meet the two criteria of damage and FOIA exemption, it is not OUO.

**NOTE:** Information should not be designated as OUO to conceal mismanagement, inefficiencies, administrative errors, or to prevent embarrassment to an employee or the Agency.

### *Marking and Protecting Official Use Only Information*

The employee making an OUO determination must ensure that the words "Official Use Only" (or "OUO" if space is limited) are placed on the bottom of the front of the document. This marking must also be placed on either the bottom of each interior page or on just those interior pages containing the OUO information. In addition, the marking below must appear on the front of the document. The employee must fill in the applicable FOIA exemption number and category name; his or her name and organization; the date of the determination; and if the determination was based on guidance, the guidance used.

<b>SAMPLE OUO STAMP</b>
<b>OFFICIAL USE ONLY</b>
May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552), exemption number and category: <u>Exemption 7, Law Enforcement</u>
Department of Energy review required before public release.
Name/Org: <u>Jane Doe, HS-60</u> Date: <u>4/14/06</u>
Guidance (if applicable) <u>CG-SS-4</u>

Anyone who needs the OUO information to perform his or her job or other DOE-authorized activity may have access to the document. The person in possession of the document determines if someone has a need for access. Some types of OUO may have special restrictions (e.g., Export Controlled Information, Source Selection Information). In such cases, the person in possession of the document must follow any additional access restrictions that apply. You should take reasonable precautions to preclude access to the information by those who do not need it for official activities.

Refer to [DOE Manual 471.3-1, Admin Chg 1, Manual for Identifying and Protecting Official Use Only Information](#), for information on marking transmittals, e-mail messages, and special document formats; removing OUO markings; and protecting documents containing OUO information.

## ***OUO and the Freedom of Information Act Exemptions***

The FOIA generally provides that any information in a document in the Federal Government’s possession must be released to anyone who requests it unless such information falls under at least one of nine exemptions identified in the FOIA. These nine exemptions protect all sensitive Government information, classified and unclassified, from public release and serve as the basis for making OUO determinations. Exemption 1 pertains to information classified by Executive order, so this information is never OUO. As of March 2011, Exemption 2 now only applies to information that relates solely to internal personnel rules and practices of an Agency, and no longer applies to “Circumvention of Statute” information. Because the only application of Exemption 2 for OUO has been “Circumvention of Statute,” Exemption 2 may no longer be used for an OUO determination. Therefore, only Exemptions 3-9 may be cited in OUO determinations.

### **EXEMPTION 3 — Statutory Exemption**

Protects information the disclosure of which is specifically protected by law and is not otherwise controlled.  
Examples:

- Cooperative Research and Development Agreement Information
- Export Controlled Information



### **EXEMPTION 4 — Commercial/Proprietary**

Protects trade secrets and commercial or financial information obtained from a person that would cause substantial competitive harm to the source or to program effectiveness if disclosed  
Examples:

- Trade secrets
- Scientific and manufacturing processes
- Bids, contracts, or proposals
- Agency credit card or bank account numbers
- Security measures for commercial entities performing Government work



### **EXEMPTION 5 — Privileged Information**

Protects the Government’s decision-making process.  
Examples:

- Recommendations
- Evaluations
- Appraisal results
- Drafts of new policies
- Attorney-Client exchanges



### **EXEMPTION 6 — Personal Privacy**

Protects personnel, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy or create a risk of identity theft.  
Examples:

- Social security numbers
- Date of birth associated with an individual
- Medical history associated with an individual



### **EXEMPTION 7 — Law Enforcement**

Protects information compiled for law enforcement purposes, including the prevention of future illegal acts.  
Examples:

- Witness statements
- Identity of firms or individuals being investigated for alleged irregularities involving contracting with DOE when no indictment has been obtained
- Information obtained in confidence in the course of a criminal investigation
- Law enforcement or security manuals
- Security measures to protect Federal buildings or personnel.



### **EXEMPTION 8—Financial Institutions**

Protects information for the use of any Agency responsible for the regulation or supervision of financial institutions  
Examples:

- Bank examination reports
- Operation and condition reports



### **EXEMPTION 9 — Wells**

Protects technical information concerning geological and geophysical information and data concerning wells.  
Examples:

- Geothermal well BTU production
- Natural gas reserves
- Groundwater inventories



Refer to the following directives for more information:

- [DOE O 471.3, Admin Chg 1, Identifying and Protecting OUO Information](#), dated 1-13-2011
- [DOE M 471.3-1, Admin Chg 1, Manual for Identifying and Protecting Official Use Only Information](#), dated 1-13-2011

Contact the Office of Classification (HS-60) at [outreach@hq.doe.gov](mailto:outreach@hq.doe.gov) if you have any questions.

## **Official Use Only ≠ Exempt from the Freedom of Information Act**

Although OUO determinations are intended to be consistent with FOIA exemptions, documents marked OUO are not automatically exempt from release when requested under the FOIA. It is important to understand that the decision to exempt information from public release under the FOIA is not made when a document is identified and marked as OUO, but when an appropriate DOE official conducts an in-depth FOIA review and makes a formal FOIA determination. Documents marked OUO must be reviewed by a FOIA official